

1 STEPHEN H. TURNER, SB# 89627  
2 E-Mail: [turner@bbslaw.com](mailto:turner@bbslaw.com)  
3 ALISHA M. LEE, SB# 219808  
4 E-Mail: [alee@bbslaw.com](mailto:alee@bbslaw.com)  
5 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
6 221 North Figueroa Street, Suite 1200  
7 Los Angeles, California 90012  
8 Telephone: (213) 250-1800  
9 Facsimile: (213) 250-7900

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11 Attorneys for Defendants ARS NATIONAL SERVICES, INC. and JASON A.  
12 HOWERTON  
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15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN JOSE DIVISION

18  
19 RAYMOND CHARLES MEYER, } CASE NO. C 08-01842 RMW  
20 Plaintiff, } The Hon. Robert M. Whyte  
21  
22 v. }  
23 ARS NATIONAL SERVICES, INC., }  
24 D/B/A ASSOCIATED RECOVERY }  
25 SYSTEMS, a California corporation, and }  
26 JASON A. HOWERTON, individually }  
27 and in his official capacity, }  
28 Defendants. }  
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LEWIS BRISBOIS BISGAARD & SMITH LLP  
221 NORTH FIGUEROA STREET, SUITE 1200  
LOS ANGELES, CALIFORNIA 90012-2801  
TELEPHONE (213) 250-1800

1 statute whatsoever. As to the remaining allegations, Defendant lacks sufficient  
2 information and belief on which to either admit or deny the allegations and on that  
3 basis, denies each and every allegation.

4 (4) Answering paragraph No. 4, Defendant lacks sufficient information and  
5 belief on which to either admit or deny the allegations and on that basis, denies each  
6 and every allegation.

7 (5) Answering paragraph No. 5, Defendant lacks sufficient information and  
8 belief on which to either admit or deny the allegations and on that basis, denies each  
9 and every allegation.

10 (6) Answering paragraph No. 6, Defendant lacks sufficient information and  
11 belief on which to either admit or deny the allegations and on that basis, denies each  
12 and every allegation.

13 (7) Answering paragraph No. 7, Defendant admits the allegations contained  
14 therein.

15 (8) Answering paragraph No. 8, Defendant admits that Jason A. Howerton  
16 is a natural person, was an employee of ARS National Services, Inc. at all relevant  
17 times, and may be served at his business address as stated. Defendant denies that Mr.  
18 Howerton is a "debt collector" within the meaning of 15 U.S.C. §1692a(6) and Cal.  
19 Civil Code § 1788.2(c). As to the remaining allegations, Defendant lacks sufficient  
20 information and belief on which to either admit or deny the allegations and on that  
21 basis, denies each and every allegation.

22 (9) Answering paragraph No. 9, Defendant lacks sufficient information and  
23 belief on which to either admit or deny the allegations and on that basis, denies each  
24 and every allegation.

25 (10) Answering paragraph No. 10, Defendant lacks sufficient information  
26 and belief on which to either admit or deny the allegations and on that basis, denies  
27 each and every allegation.

28 (11) Answering paragraph No. 11, Defendant lacks sufficient information

1 and belief on which to either admit or deny the allegations and on that basis, denies  
2 each and every allegation.

3 (12) Answering paragraph No. 12, Defendant lacks sufficient information  
4 and belief on which to either admit or deny the allegations and on that basis, denies  
5 each and every allegation.

6 (13) Answering paragraph No. 13, the letter speaks for itself.

7 (14) Answering paragraph No. 14, Defendant lacks sufficient information  
8 and belief on which to either admit or deny the allegations and on that basis, denies  
9 each and every allegation.

10 (15) Answering paragraph No. 15, Defendant lacks sufficient information  
11 and belief on which to either admit or deny the allegations and on that basis, denies  
12 each and every allegation.

13 (16) Answering paragraph No. 16, the letter speaks for itself.

14 (17) Answering paragraph No. 17, Defendant lacks sufficient information  
15 and belief on which to either admit or deny the allegations and on that basis, denies  
16 each and every allegation.

17 (18) Answering paragraph No. 18, Defendant lacks sufficient information  
18 and belief on which to either admit or deny the allegations and on that basis, denies  
19 each and every allegation.

20 (19) Answering paragraph No. 19, Defendant lacks sufficient information  
21 and belief on which to either admit or deny the allegations and on that basis, denies  
22 each and every allegation.

23 (20) Answering paragraph No. 20, Defendant lacks sufficient information  
24 and belief on which to either admit or deny the allegations and on that basis, denies  
25 each and every allegation.

26 (21) Answering paragraph No. 21, Defendant lacks sufficient information  
27 and belief on which to either admit or deny the allegations and on that basis, denies  
28 each and every allegation.

1 (22) Answering paragraph No. 22, the letter speaks for itself.

2 (23) Answering paragraph No. 23, Defendant lacks sufficient information  
3 and belief on which to either admit or deny the allegations and on that basis, denies  
4 each and every allegation.

5 (24) Answering paragraph No. 24, Defendant denies each and every  
6 allegation contained therein.

7 (25) Answering paragraph No. 25, Defendant denies each and every  
8 allegation contained therein and further denies that it has violated any statute  
9 whatsoever.

10 (26) Answering paragraph No. 26, Defendant denies each and every  
11 allegation contained therein and further denies that it has violated any statute  
12 whatsoever.

13 (27) Answering paragraph No. 27, Defendant lacks sufficient information  
14 and belief on which to either admit or deny the allegations and on that basis, denies  
15 each and every allegation.

16 (28) Answering paragraph No. 28, Defendant repeats paragraphs 1 through  
17 26 of this answer as if set forth at length herein.

18 (29) Answering paragraph No. 29, Defendant lacks sufficient information  
19 and belief on which to either admit or deny the allegations and on that basis, denies  
20 each and every allegation.

21 (30) Answering paragraph No. 30, Defendant admits the allegations  
22 contained therein.

23 (31) Answering paragraph No. 31, Defendant denies each and every  
24 allegation contained therein.

25 (32) Answering paragraph No. 32, Defendant lacks sufficient information  
26 and belief on which to either admit or deny the allegations and on that basis, denies  
27 each and every allegation.

28 (33) Answering paragraph No. 33 and each subpart therein, Defendant denies

1 each and every allegation contained therein and further denies that it has violated any  
2 statute whatsoever.

3 (34) Answering paragraph No. 34, Defendant denies each and every  
4 allegation contained therein.

5 (35) Answering paragraph No. 35, Defendant denies that it has violated any  
6 statute whatsoever and further denies that plaintiff is entitled to any damages  
7 whatsoever.

8 (36) Answering paragraph No. 36, Defendant lacks sufficient information  
9 and belief on which to either admit or deny the allegations and on that basis, denies  
10 each and every allegation.

11 (37) Answering paragraph No. 37, Defendant incorporates paragraphs 1  
12 through 36 as if set forth at length herein.

13 (38) Answering paragraph No. 38, Defendant lacks sufficient information  
14 and belief on which to either admit or deny the allegations and on that basis, denies  
15 each and every allegation.

16 (39) Answering paragraph No. 39, Defendant admits the allegations  
17 contained therein.

18 (40) Answering paragraph No. 40, Defendant denies each and every  
19 allegation contained therein.

20 (41) Answering paragraph No. 41, Defendant lacks sufficient information  
21 and belief on which to either admit or deny the allegations and on that basis, denies  
22 each and every allegation.

23 (42) Answering paragraph No. 42 and each subpart therein, Defendant denies  
24 each and every allegation contained therein and further denies that it has violated any  
25 statute whatsoever.

26 (43) Answering paragraph No. 43, Defendant denies each and every  
27 allegation contained therein.

28 (44) Answering paragraph No. 44, Defendant denies that it has violated any

1 statute whatsoever and denies that Plaintiff is entitled to any damages whatsoever.

2 (45) Answering paragraph No. 45, Defendant denies that it has violated any  
 3 statute whatsoever and denies that Plaintiff is entitled to any damages whatsoever.

4 (46) Answering paragraph No. 46, Defendant denies that it has violated any  
 5 statute whatsoever and denies that Plaintiff is entitled to any damages whatsoever.

6 (47) Answering paragraph No. 47, Defendant notes that Plaintiff purports to  
 7 accurately describe the law. To the extent that plaintiff's representation of the law is  
 8 inaccurate, Defendant denies each and every allegation contained therein.

9

10 **FIRST AFFIRMATIVE DEFENSE**

11 1. As a separate, affirmative defense, Defendant alleges that the  
 12 Complaint, and each and every purported cause of action contained therein, fails to  
 13 state facts sufficient to constitute a cause of action.

14 **SECOND AFFIRMATIVE DEFENSE**

15 2. As a separate, affirmative defense, Defendant alleges that the alleged  
 16 actions of Defendant were proper and did not violate any provisions of 15 U.S.C.  
 17 §1692 et. seq.

18 **THIRD AFFIRMATIVE DEFENSE**

19 3. As a separate, affirmative defense, Defendant alleges that at all times  
 20 mentioned in the Complaint, Defendant acted lawfully and within its legal rights,  
 21 with a good faith belief in the exercise of that right, and in the furtherance of a  
 22 legitimate business purpose. Further, Defendant acted in good faith in the honest  
 23 belief that the acts, conduct and communications, if any, of the Defendant were  
 24 justified under the circumstances based on information reasonably available to this  
 25 answering Defendant.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 4. As a separate, affirmative defense, Defendant alleges that the alleged  
 28 actions of the Defendant were not accompanied by actual malice, intent or ill will.

## **FIFTH AFFIRMATIVE DEFENSE**

5. As a separate, affirmative defense, Defendant alleges that Defendant's conduct, communications and actions, if any, were privileged.

## **SIXTH AFFIRMATIVE DEFENSE**

6. As a separate, affirmative defense, assuming arguendo that this answering Defendant violated a statute alleged in the complaint, which presupposition the answering Defendant denies, such violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

## **SEVENTH AFFIRMATIVE DEFENSE**

7. As a separate, affirmative defense, Defendant alleges that Plaintiff is barred from any recovery against this answering Defendant by the doctrine of laches.

## **EIGHTH AFFIRMATIVE DEFENSE**

8. As a separate, affirmative defense, Defendant alleges that its conduct, communications and actions, if any, were privileged pursuant to Civil Code §1785.32.

## **NINTH AFFIRMATIVE DEFENSE**

9. As a separate, affirmative defense, Defendant alleges that it, at all times alleged in the complaint, maintained reasonable procedures created to prevent any type of intentional violations of the Fair Debt Collection Practices Act.

## **TENTH AFFIRMATIVE DEFENSE**

10. As a separate, affirmative defense, Defendant alleges that if Plaintiff was damaged in any sum or sums alleged, which Defendant denies, then Plaintiff's damages are limited by 15 U.S.C. §1692(k)(a)(1), §1692(k)(a)(2)(A), §1692(k)(a)(3) and 15 U.S.C. § 1692(k)(b)(1).

**ELEVENTH AFFIRMATIVE DEFENSE**

11. As a separate, affirmative defense, Defendant alleges that Defendant's conduct, communications and actions, if any, were privileged pursuant

1 to 15 U.S.C. §1692(k)(c).

2 **TWELFTH AFFIRMATIVE DEFENSE**

3 12. As a separate, affirmative defense, Defendant alleges that the alleged  
4 actions of Defendant were proper and did not violate any provisions of Cal. Civ.  
5 Code § 1788, *et seq.*

6 **THIRTEENTH AFFIRMATIVE DEFENSE**

7 13. As a separate, affirmative defense, Defendant alleges that the alleged  
8 actions of the Defendant were privileged pursuant to Federal and State Common  
9 Law.

10 **FOURTEENTH AFFIRMATIVE DEFENSE**

11 14. As a separate, affirmative defense, Defendant alleges that if Plaintiff  
12 was damaged in any sum or sums alleged, which Defendant denies, Plaintiff failed to  
13 mitigate his damages.

14 **FIFTEENTH AFFIRMATIVE DEFENSE**

15 15. As a separate, affirmative defense, Defendant alleges that if Plaintiff  
16 was damaged in any sum or sums alleged, which Defendant denies, Defendant's  
17 alleged acts or omissions were not a proximate cause of said damages.

18 WHEREFORE, this answering Defendant prays,

19 1. For a judgment in favor of Defendant, and against Plaintiff, and that  
20 Plaintiff take nothing by reason of said Complaint;

21 2. That this answering Defendant be awarded cost of suit herein and  
22 such other further relief as the Court deems just.

24 **DEMAND FOR JURY TRIAL**

25 PLEASE TAKE NOTICE that Defendant demands trial by jury.

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28 ///

1 DATED: April 28, 2008

LEWIS BRISBOIS BISGAARD & SMITH LLP

2 By Alisha

3 Stephen H. Turner

4 Alisha M. Lee

5 Attorneys for Defendants ARS National  
6 Services, Inc. and JASON A. HOWERTON

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LEWIS BRISBOIS BISGAARD & SMITH LLP  
221 NORTH FIGUEROA STREET, SUITE 1200  
LOS ANGELES, CALIFORNIA 90012-2601  
TELEPHONE (213) 230-1800

## **CERTIFICATE OF SERVICE**

I certify that on the 28th day of April 2008, I electronically transmitted the foregoing document to the Clerk's office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

**Fred W. Schwinn, Esq.  
CONSUMER LAW CENTER, INC.  
Attorneys for Plaintiff**

By: /s/ Alisha M. Lee

**LEWIS BRISBOIS BISGAARD & SMITH LLP**  
221 NORTH FIGUEROA STREET, SUITE 1200  
LOS ANGELES, CALIFORNIA 90012-2601  
TELEPHONE (213) 250-1800